

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

NESTORA GARCIA, *et al.*,

Plaintiffs,

Case No. 09-cv-322 BB/WDS

v.  
BOARD OF COUNTY COMMISSIONERS  
OF THE COUNTY OF BERNALILLO, *et al.*,

Defendants.

**ORDER**

**THIS MATTER** comes before the Court on Defendants' Joint Motion for Sanctions for Plaintiffs' Failure to Participate in Court Ordered Settlement Conference in Good Faith (Doc. No. 195). By Order of the Presiding Judge the matter has been referred to the undersigned for decision. (Doc. No. 200).

There is no question that Plaintiffs' counsel was not diligent in her preparation for the conference, to include a failure to provide the Court with a position statement and failing to meaningfully consult with the Defendants in advance of the conference.

Over two weeks before the conference the Court held a telephonic hearing with the parties and one of the matters discussed was Plaintiffs' desire that the settlement conference be continued until after rulings were made on the pending dispositive motions. Defendants urged that the settlement conference go forward as scheduled. Knowing that the insurance representative for the Defendants would be traveling from out of state, the Court noted that conferences were seldom successful if both sides were not in a posture to negotiate meaningfully. Accordingly, the Court told the parties to make sure they had discussions in

advance of the conference so that the conference could be postponed if it did not appear that it could be productive. As outlined in the parties' papers, those discussions did not take place, the Court was informed that the conference could go forward, and the conference was unsuccessful.

The Court finds that both parties were in part responsible for the failures that resulted. The Court declines to apportion the fault.

IT IS THEREFORE ORDERED that Defendants' Joint Motion for Sanctions for Plaintiffs' Failure to Participate in Court Ordered Settlement Conference in Good Faith (Doc. No. 195) is denied.

A handwritten signature in black ink, appearing to read 'W.D. Schneider', is written above a horizontal line.

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**W. DANIEL SCHNEIDER**  
**United States Magistrate Judge**